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SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			APELLINO, JOSEPH E	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

1. Claims 1, 3-5, 7-9, 11-13, and 15-17 are presented for examination; claims 1, 5, 9, 13, and 17 independent.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ngo et al. (WO 00/04427) (cited by Applicant in IDS) (hereinafter Ngo) in view of Malkin et al. (EP 1 021 021) (cited by Applicant in IDS) (hereinafter Malkin) in view of Vellanki (USPN 5,999,979) (hereinafter Vellanki).

3. Referring to claim 1, Ngo discloses a system connected to a home network (Figure 1, entire figure) in which a plurality of devices are connected to one another through the Internet, the system provides a certain device in the home network with a service (p. 7, lines 10-25) comprising:

a database that stores address information about the home network that subscribes to the service, and information about at least one of a plurality of service recipient devices within the home network (col. 6, lines 15-33; col. 7, line 10 to col. 8, line 15).

Ngo does not specifically disclose the system transmits a notifying message to at least one of the plurality of service recipient devices prior to providing the service, to confirm whether the device can receive the service or not, and provides the service to the device after receiving an affirmative response from the device and the notifying message contains additional identifying information of the service recipient device as well as information about an address of the home network to which the plurality of devices belong. In analogous art, Malkin discloses another system connected to a home network for providing a service (i.e. data distribution) wherein the system transmits a notifying message (i.e. status message, PING) to at least one of the plurality of service recipient devices (i.e. client device) prior to providing the service, to confirm whether the device can receive the service or not, and provides the service to the device after receiving an affirmative response (i.e. client has reached the desired status) from the device and the notifying message (to the push proxy server from the awareness server) contains additional identifying information of the service recipient device as well as information about an address of the home network to which the plurality of devices belong (col. 6, line 19 to col. 7, line 57). Furthermore Malkin discloses the additional identifying information (i.e. addressing information such as hostname and IP address) is used for one of the plurality of devices (i.e. client devices) of a same kind (i.e. they are both client computers of the system) that intends to receive a same type of service (i.e. the data push) (col. 7, lines 37-58).

It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Malkin with Ngo since Ngo discloses that the

system is used to collect data from remote meters, however does not specifically disclose an efficient method of collecting the information (p. 10, lines 5-10). This would lead one of ordinary skill searching in efficient methods on collecting non-time dependent data, which would lead one to the system of Malkin and the efficient push technique thereby sending data only when the system is able to sufficiently handle the data distribution as supported by Malkin (col. 2, lines 15-20).

Malkin-Ngo do not explicitly disclose the transmission of a notification message to determine if the recipient can receive the service or not, the device determines if the device can receive the service or not. In analogous art, Vellanki discloses another network service determination system which discloses sending a notifying message (i.e. probing signal) to determine if the recipient can receive the service or not, the device determining if it can receive the service or not (i.e. sending a protocol frame to an end device, the end device determines if it supports the particular service, if it can read the protocol it sends a response back to the sender, which indicates that the end device is capable of receiving the service or not) (e.g. abstract). It would have been obvious to one of ordinary skill in the art to combine the teaching of Malkin-Ngo with Vellanki in order to ensure the most correct protocol to be used in communication between the devices as supported by Vellanki (col. 3, lines 57-60).

4. Referring to claims 2 and 3, Ngo discloses the invention substantively as described in claim 1. Ngo does not specifically state that the additional identifying information is used for one of the plurality of devices of a same kind that intends to

receive a same type of service. In analogous art, Malkin discloses the additional identifying information (i.e. addressing information such as hostname and IP address) is used for one of the plurality of devices (i.e. client devices) of a same kind (i.e. they are both client computers of the system) that intends to receive a same type of service (i.e. the data push) (col. 7, lines 37-58). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Malkin with Ngo since Ngo discloses that the system is used to collect data from remote meters, however does not specifically disclose an efficient method of collecting the information (p. 10, lines 5-10). This would lead one of ordinary skill searching in efficient methods on collecting non-time dependent data, which would lead one to the system of Malkin and the efficient push technique thereby sending data only when the system is able to sufficiently handle the data distribution as supported by Malkin (col. 2, lines 15-20).

5. Referring to claim 4, Ngo discloses the invention substantively as described in claim 1. Ngo does not specifically state the service is a push service that provides a certain service to the devices repeatedly in a predetermined period of time. Malkin discloses another system in which the service is a push service that provides a certain service to the devices repeatedly (i.e. polling) in a predetermined period of time (it is well known that polling a device is done by a schedule with a predetermined period of time set between polls) (col. 8, ¶ 37). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Malkin with Ngo since Ngo discloses that the system is used to collect data from remote meters,

however does not specifically disclose an efficient method of collecting the information (p. 10, lines 5-10). This would lead one of ordinary skill searching in efficient methods on collecting non-time dependent data, which would lead one to the system of Malkin and the efficient push technique thereby sending data only when the system is able to sufficiently handle the data distribution as supported by Malkin (col. 2, lines 15-20).

6. Claims 5-17 are rejected for similar reasons as stated above. Furthermore Ngo discloses the database stores dynamic IP addresses and IDs of the devices (p. 5, lines 25-35; p. 9, line 22 to p. 10, line 10).

Response to Arguments

7. Applicant's arguments filed October 16, 2008 have been fully considered but are not persuasive.

8. Applicant argues, in substance, that the references do not disclose a "notifying message... to confirm whether the plurality of service recipient devices is operable to receive the service or not". The Examiner disagrees. As provided above, Vellanki discloses the use of a message to determine the appropriate protocol to be used to communicate with the endpoint system. As is known in the art, if a malformed packet is received, it is dropped. ON this point, Vellanki will then provide various packet formats to determine the most appropriate packet to be used. Once a properly formatted packet has been found, it will be processed by the endpoint, and then an acknowledgement is

returned. When combined with Ngo and Malkin, this clearly meets the claimed limitation.

Furthermore, even assuming that the limitation is not met by the references, this limitation is a statement of intended use of the notifying message and therefore is not given patentable weight. The underlying structure is clearly capable of being used in such a way and therefore it meets the limitation.

By these rationales, the rejection is maintained.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Applicant employs broad language, which includes the use of word, and phrases, which have broad meanings in the art. In addition, Applicant has not argued any

narrower interpretation of the claim language, nor amended the claims significantly enough to construe a narrower meaning to the limitations. As the claims breadth allows multiple interpretations and meanings, which are broader than Applicant's disclosure, the Examiner is forced to interpret the claim limitations as broadly and as reasonably possible, in determining patentability of the disclosed invention. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir.1993). Failure for Applicant to significantly narrow definition/scope of the claims and supply arguments commensurate in scope with the claims implies the Applicant intends broad interpretation be given to the claims. The Examiner has interpreted the claims with scope parallel to the Applicant in the response and reiterates the need for the Applicant to more clearly and distinctly define the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (571) 272-3905. The examiner can normally be reached on Monday-Friday 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey C. Pwu can be reached on (571)272-6798. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2446

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Joseph E. Avellino/
Primary Examiner, Art Unit 2446